REMARKS

Applicant has the following comments in response to the Office Action.

Discussion of Claim Status

In the Office Action, the Examiner rejected Claims 1-6, 8, 9, 15-22, 24-35, 40-46, 51, 55-57, and 61-63 under 35 U.S.C. § 102(b) and (e). The Examiner stated that Claims 10-13, 36-39, and 47-50 as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the recitations of the base claim and any intervening claims. By this paper, Applicant has rewritten Claims 10, 36, and 47 in independent form and these claims are now respectively Claims 1, 28, and 40. Furthermore, similar recitations were added to independent Claims 17 and 26. Thus, Applicant respectfully submits that independent Claims 1, 17, 26, 28, and 40 and dependent Claims 2-6, 8, 11-13, 15, 16, 18-22, 24, 25, 27, 28, 29-34, 47-39, 41-45, and 47-51 are in condition for immediate allowance.

Discussion of Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

In the Office Action, the Examiner rejected Claim 44 stating that the limitation "the network events" lacks antecedent basis. Applicant respectfully submits that this has been corrected by the above-amendments and respectfully requests that this rejection be removed.

Discussion of Claim Rejections Under 35 U.S.C. § 102

In the Office Action, the Examiner stated that independent Claims 55 and 61 were rejected under 35 U.S.C. § 102(b) as being disclosed by U.S. Patent No. 4,771,391 to Blasbalg (hereinafter "Blasbalg"). Furthermore, independent Claims 55 and 61 were rejected under 35 U.S.C. § 102(e) as being disclosed by U.S. Patent No. 6,014,707 to Miller, et al. (hereinafter "Miller") and U.S. Patent No. 6,003,089, to Shaffer, et al. (hereinafter "Shaffer"). Applicant respectfully disagrees with these rejections. Applicant respectfully submits that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. See M.P.E.P. § 2131. Applicant respectfully submits that each of the cited patents does not teach at least one aspect of what is recited in Claims 55 and 61.

Claim 55, as amended, recites: "determining, in a server device, a maximum transmission unit value of an intermediary network device between a client device and the server device, the maximum transmission unit value identifying a largest packet size that is transported by the intermediary network device; and building a data packet, the size of the data packet being no

larger than the maximum transmission unit value." Independent Claim 61 includes similar types of limitations. Applicant respectfully submits that the cited references fail to disclose at least these recitations.

Blasbalg describes a method of controlling packet sizes by monitoring traffic flow over a local area network. In Blasbalg, the system imposes the relationship that the average length of the packets on the network is to be a function of the measured information flow rate on the network. *See* col. 5, lines 5-11. Thus, Blasbalg fails to teach or suggest providing a maximum packet size. Furthermore, Blasbalg fails to disclose using a maximum transmission unit of an intermediary device on the network as this maximum. Since Blasbalg wholly fails to teach or suggest at least this limitation, Applicant respectfully submits that independent Claims 55 and 61 are allowable over the disclosure of Blasbalg.

Furthermore, Applicant respectfully submits that these limitations are not taught or suggested by Miller. Applicant notes that the Examiner in rejecting many of the claims has wholly failed to particularly describe where many of the claim recitations are described with respect to in Miller. In this regard, Applicant respectfully submits that the Examiner has failed to provide a valid prima facie rejection. Miller is generally directed to a stateless data transfer protocol with client controlled transfer unit size. Although Miller describes allowing for the size of a data size to be set, it fails to teach or suggest determining a maximum transmission unit of an intermediary device, and it also fails to teach or suggest building a data packet such that the size of the data packet is not larger than maximum transmission unit. Since Miller fails to teach or suggest at least this claim recitation, Applicant respectfully submits that independent Claims 55 and 61 are allowable over Miller.

In addition, in the Office Action, the Examiner took official notice that it is commonplace in the streamable multimedia art to increase to increase the number of channels that are used to transmit streamable data objects in order to increase the speed of transmission. According to the Manual of Patent Examining Procedure, if an applicant traverses a rejection based upon the knowledge of ordinary skill in the art, the Examiner should cite a reference in support of his or her position. M.P.E.P. § 2144.03. Thus, Applicant respectfully requests the Examiner to provide a reference in support of his position.

Moreover, Applicant respectfully submits that these features are not taught or suggested by Shaffer. Shaffer is generally directed to adapting packet lengths in a congested network. In

Shaffer, packets are accumulated into a larger packet if time permits before transport. *See Shaffer*, abstract. Shaffer describes that the construction of the aggregated packet can be performed in a switch. However, Shaffer fails to disclose determining in a server a maximum transmission unit of an intermediary device between the server and a client. Since Shaffer fails to teach or disclose at least these recitations, Applicant respectfully submits that this case is in condition for allowance.

Furthermore, since Claims 55-60, 62 and 63 each depend on one of Claims 55 and 61, Applicant respectfully submits that these claims are allowable for at least the reasons discussed above.

Summary

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims for patentability purposes, the reasons therefore, and arguments in support of the patentability of the pending claim set are presented above. Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and the claims would satisfy the statutory requirements for patentability without the entry of such amendments. In addition, such amendments do not narrow the scope of the claims. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language. In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 12/ 1/ 2003

By: _Eric M. Nelson_
Eric M. Nelson
Registration No. 43,829
Attorney of Record
Customer No. 20,995
(619) 235-8550

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